IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

And
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 20677 of 2004

Between:

M/s.Jayakrishna Cashew Processors, Palasa-532 221,
Srikakulam District rep., by its Proprietor,
Mr.Pentasasibhushan Rao

..... PETITIONER

AND

1 Commercial Tax Officer, Kasibugga Circle, Srikakulam.
2 Additional Commissioner, Commercial Taxes, (Legal)(FAC),
CT & Excise Complex, Opp:Gandhi Bhavan, M.J.Road,
Nampally, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of certiorari or any other appropriate writ, or order or direction calling for the records of the 2nd respondent in Commissioner of Commercial taxes's Ref.No.LV(3)/34/2003, dt.21-09-2004 and quash the same as arbitrary, contrary to law and against the weight of evidence and probabilities of the petitioner's case and consequently grant stay of collection of balance disputed tax of Rs.92,557/- out of total disputed demand of Rs.1,23,417/- for the assessment year 1996-97 CST pending disposal of the appeal before Sales tax Appellate Tribunal.

Counsel for the Petitioner: MR.M.V.PAVAN KUMAR

Counsel for the Respondent Nos.1 & 2: SPECIAL S.C FOR COMMERCIAL TAXES.

The Court, at the stage of admission, made the following:

Oral order: (Per: The Hon'ble Mr. Justice Bilal Nazki)

Heard learned Counsel for the parties. With their consent, the Writ Petition is disposed of at this stage.

The controversy is that pending appeal, application for stay was dismissed by the competent authority. We have gone through the record and heard learned Counsel for the parties. We feel that the interest of justice would have been met, if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of six weeks. Any amount already paid shall be deducted from the amount to be deposited. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition is disposed of accordingly. No costs.

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BILAL NAZKI, J

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S. ANANDA REDDY, J

Dt. 10-11-2004

Pvks/*

Nb: Operative portion by wire at party's costs.

B/o pvks

To

1 Commercial Tax Officer, Kasibugga Circle, Srikakulam.
2 Additional Commissioner, Commercial Taxes, (Legal)(FAC),
CT & Excise Complex, Opp:Gandhi Bhavan, M.J.Road,
Nampally, Hyderabad.

3.2CCs to the Special S.C. for Commercial Taxes, A.P. High Court Buildings, Hyderabad (OUT).

4.2CD copies

*Form-NIC-OGS/WP{**RS**}*